



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2022-0611]

RIN 1625-AA08

Eleventh Coast Guard District Annual Marine Events; Northern California and Lake Tahoe, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is updating the list of marine events occurring annually within the Eleventh Coast Guard District, specifically within the San Francisco Captain of the Port (COTP) zone. This rule will enable vessel movement restrictions in the regulated area when the special local regulations are activated and enforced.

DATES: This rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0611 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LT Anthony Solares, Sector San Francisco, U.S. Coast Guard; telephone 415-399-3585, email SFWaterways@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Coast Guard regularly updates the regulations for recurring special local regulations within the Eleventh Coast Guard District listed in 33 CFR 100.1103. These recurring special local regulations are for marine events that take place either on or over the navigable waters of the Eleventh Coast Guard District as defined at 33 CFR 3.55-1. These regulations were last amended February 13, 2020 (85 FR 8169). Before new recurring events are added to the listed events for Eleventh Coast Guard District they are reviewed for safe practice and verified to be recurring on or about the same time of year for subsequent years.

In response, on August 29, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Eleventh Coast Guard District Annual Marine Events; Northern California and Lake Tahoe, CA” (87 FR 52865). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the marine event additions. During the comment period that ended September 29, 2022, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to ensure the safety of the participants and vessels during the upcoming event on October 23, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041

(previously 33 U.S.C. 1233). The Captain of the Port San Francisco (COTP) has determined the regulation update is necessary to include recurring marine events and keep spectators and vessels a safe distance away from the specified events to ensure the safety of participants, spectators, and transiting vessels.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 29, 2022. There are no changes in the regulatory text of this rule from the regulatory text in the NPRM.

This rule updates the list of marine events occurring annually within the Eleventh Coast Guard District, specifically within the San Francisco Captain of the Port (COTP) zone. This rule will enable vessel movement restrictions in the regulated area when the special local regulations are activated and enforced. No vessel or person will be permitted to enter the regulated area unless authorized by the COTP.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size and location of the regulated areas. The effect of this rule will not be significant because vessel traffic can

either pass safely around these areas, regardless of size, or this rule will encompass only a small portion of the waterway for a short duration. Vessels will also be able to request permission from the COTP to transit through the regulated areas.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule does not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the potential effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning

COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves revision of 33 CFR 100.1103. The additions to table 1 of 33 CFR 100.1103 will capture recurring marine events in the San Francisco Captain of the Port (COTP) zone. The revised regulation will prevent unauthorized persons or vessels from entering into, transiting through, or remaining in the regulated areas without the permission of the Captain of the Port San Francisco or a designated representative. It is categorically excluded from further review under paragraph L[61] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Revise and republish § 100.1103 to read as follows:

§ 100.1103 Northern California and Lake Tahoe area annual marine events.

(a) *General.* Special local regulations are established for the events listed in table 1 to this section. Notice of implementation of these special local regulations will be made by publication in the FEDERAL REGISTER 30 days prior to the event for those events without specific dates or by Notice to Mariners 20 days prior to the event for those events listing a period for which a firm date is identifiable. In all cases, further information on exact dates, times, and other details concerning the number and type of participants and an exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to each event. To be placed on the mailing list for Local Notice to Mariners contact: Commander (dpw), Eleventh Coast Guard District, Coast Guard Island, Building 50-2, Alameda, CA 94501-5100. *Note:* Sponsors of events listed in table 1 to this section must submit an application each year as required by subpart A of this part to the cognizant Coast Guard Sector Commander. Sponsors are informed that ample lead time is required to inform all Federal, state, local agencies, and other interested parties and to provide the sponsor the best support to ensure the safety of life and property.

(b) *Special local regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The “official patrol” consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the regulated areas during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed or signaled by an official patrol vessel, any spectator located

within a regulated area during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative; and will be located aboard the lead official patrol vessel. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. The PATCOM may be reached on VHF-FM Channel 13 (156.65MHz) or 16 (156.8MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

Table 1 to § 100.1103

[All Coordinate Referenced Use Datum NAD 83]

1. Blessing of the Fleet	
Sponsor	Corinthian Yacht Club.
Event Description	Boat parade during which vessels pass by a pre-designated platform or vessel.
Date	Last Sunday in April.
Location	San Francisco Waterfront to South Tower of Golden Gate Bridge.
Regulated Area	The area between a line drawn from Bluff Point on the southeastern side of Tiburon Peninsula to Point Campbell on the northern edge of Angel Island, and a line drawn from Peninsula Point to the southern edge of Tiburon Peninsula to Point Stuart on the western edge of Angel Island.
2. Opening Day on San Francisco Bay	

Sponsor	Pacific Inter-Club Yacht Association and Corinthian Yacht Club.
Event Description	Boat parade during which vessels pass by a pre-designated platform or vessel.
Date	Last Sunday in April.
Location	San Francisco, CA waterfront: Crissy Field to Pier 39.
Regulated Area	The area defined by a line drawn from Fort Point; thence easterly approximately 5,000 yards; thence easterly to the Blossom Rock Bell Buoy; thence westerly to the Northeast corner of Pier 39; thence returning along the shoreline to the point of origin.
	Special Requirements: All vessels entering the regulated area shall follow the parade route established by the sponsor and be capable of maintaining an approximate speed of 6 knots.
	Commercial Vessel Traffic Allowances: The parade will be interrupted, as necessary, to permit the passage of commercial vessel traffic. Commercial traffic must cross the parade route at a no-wake speed and perpendicular to the parade route.
3. Delta Thunder Powerboat Race	
Sponsor	Pacific Offshore Power Racing Association.
Event Description	Professional high-speed powerboat race.
Date	Second Saturday, Sunday in September.
Location	Off Pittsburgh, CA in the waters around Winter Island and Brown Island.
Regulated Area	The water area of Suisun Bay commencing at Simmons Point on Chipps Island; thence southwesterly to Stake Point on the southern shore of Suisun Bay; thence easterly following the southern shoreline of Suisun Bay and New York Slough to New York Slough Buoy 13; thence north-northwesterly to the Northwestern corner of Fraser Shoal; thence northwesterly to the western tip of Chain Island; thence west-northwesterly to the northeast tip of Van Sickle Island; thence following the shoreline of Van Sickle Island and Chipps Island and returning to the point of origin.
4. Pittsburg Seafood Festival Air Show	
Sponsor	City of Pittsburg, CA.
Event Description	Pittsburg Seafood Festival Air Show.

Date	Second Saturday, Sunday in September.
Location	Off Pittsburg, CA in the waters around Winer Island and Broqn Island.
Regulated Area	The water area of Suisun Bay commencing at Simmons Point on Chipps Island; thence southwesterly to Stake Point on the southern shore of Suisun Bay; thence easterly following the southern shoreline of Suisun Bay and New York Slough to New York Slough Buoy 13; thence north-northwesterly to the Northwestern corner of Fraser Shoal; thence northwesterly to the western tip of Chain Island; thence west-northwesterly to the northeast tip of Van Sickle Island; thence following the shoreline of Van Sickle Island and Chipps Island and returning to the point of origin.
5. Sacramento Ironman Swim	
Sponsor	IRONMAN Group.
Event Description	Swim portion of the Sacramento Ironman Triathlon.
Date	A Sunday in October.
Location	Waters of the American River and Sacramento River from Township 9 Park to North of Tower Bridge.
Regulated Area	For the duration of the event, all non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area all waters of the American River and Sacramento River from Township 9 Park to North of Tower Bridge.
6. Escape From Alcatraz Swim	
Sponsor	Action Sports Events IMG.
Event Description	Escape From Alcatraz Swim. An approximate 750 meter swim that will originate from a boat located in the San Francisco Bay.
Date	A weekend day in June.
Location	Waters of the San Francisco Bay From Alcatraz Island to Saint Francis Yacht Club.
Regulated Area	For the duration of the event, all non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area all waters of the San Francisco Bay From Alcatraz Island to Saint Francis Yacht Club.

Dated: October 7, 2022.

Taylor Q. Lam,
Captain, U.S. Coast Guard,
Captain of the Port San Francisco.

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